

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

UNITED SERVICES AUTOMOBILE  
ASSOCIATION,

Plaintiff,

V.

PNC BANK N.A.,

Defendant.

Case No. 2:20-cv-00319-JRG (Lead)

Case No. 2:21-cv-110-JRG

JURY TRIAL DEMANDED

**FILED UNDER SEAL**

**DECLARATION OF STEPHEN PAYNE IN SUPPORT OF PLAINTIFF UNITED  
SERVICES AUTOMOBILE ASSOCIATION'S MOTION TO STRIKE PORTIONS  
OF THE EXPERT REPORTS OF STEPHEN GRAY**

I, Stephen Payne, declare as follows:

1. I am an attorney at the law firm of Irell & Manella LLP, counsel for United Services Automobile Association (“USAA”) in the above-captioned action. I am a member in good standing of the State Bar of California and have been admitted to practice *pro hac vice* before this Court in this action. I provide this declaration in support of Plaintiff’s Motion of Strike Portions of the Expert Reports of Stephen Gray. I have personal knowledge of the information set forth herein and could and would testify competently thereto if called as a witness.

2. Attached as **Exhibit 1** is a true and correct copy of Defendant and Counter-Claimant PNC Bank, N.A.’s Disclosure of Asserted Claims and Infringement Contentions for the ’623 Patent (Exhibit C) in Civil Action No. 2:20-cv-00319 JRG dated March 16, 2021.

3. Attached as **Exhibit 2** is a true and correct copy of excerpts of the Expert Report of Stephen Gray Regarding Infringement of U.S. Patent Nos. 8,380,623 and 8,682,754 dated November 24, 2021.

4. Attached as **Exhibit 3** is a true and correct copy of United States Provisional Patent Application No. 61/065,134 dated 02/08/2008.

5. Attached as **Exhibit 4** is a true and correct copy of Defendant and Counter-Claimant PNC Bank, N.A.’s Disclosure of Asserted Claims and Infringement Contentions for the ’754 Patent (Exhibit D) in Civil Action No. 2:20-cv-00319 JRG dated March 16, 2021

6. Attached as **Exhibit 5** is a true and correct copy of United States Patent No. 8,682,754.

7. Attached as **Exhibit 6** is a true and correct copy of excerpts of the Expert Report of Stephen Gray Regarding Validity of U.S. Patent Nos. 8,380,623 and 8,682,754 dated December 22, 2021.

8. Attached as **Exhibit 7** is a true and correct copy of excerpts Defendant PNC Bank, N.A.’s First Supplemental Response and Objections to USAA’s Fourth Set of Interrogatories (Nos.

20–26) in Civil Action No. 2:20-cv-00319-JRG (lead) and Civil Action No. 2:21-cv-00110-JRG dated November 15, 2021.

9. Attached as **Exhibit 8** is a true and correct copy of excerpts of Michael Ley’s November 1, 2021 deposition.

10. Attached as **Exhibit 9** is a true and correct copy of excerpts of Defendant and Counter-Claimant PNC Bank, N.A.’s Disclosure of Asserted Claims and Infringement Contentions in Civil Action No. 2:20-cv-00319 JRG dated March 16, 2021.

Executed on January 19, 2022 at Newport Beach, California.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

/s/ Stephen Payne

Stephen Payne